

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MANDELL MITCHELL, individually and  
on behalf of all others similarly situated,  
Plaintiff,  
-against-

WHOLE FOODS MARKET GROUP,  
INC.,  
Defendant.

Case No.: 1:20-cv-08496-ER

**NOTICE OF DEFENDANT'S MOTION TO DISMISS  
PLAINTIFF'S SECOND AMENDED COMPLAINT**

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*Attorneys for Defendant Whole Foods  
Market Group, Inc.*

PLEASE TAKE NOTICE that defendant Whole Foods Market Group, Inc. (“WFM Group”), by its undersigned counsel, hereby moves before the Honorable Edgardo Ramos, United States District Judge, Southern District of New York, in Courtroom 619 of the Thurgood Marshall, United States Courthouse, located at 40 Foley Square, New York, New York 10007, for an order dismissing Plaintiff’s Second Amended Complaint (“SAC”), with prejudice pursuant to Federal Rules of Civil Procedure Rule 9(b) and 12(b)(6).

PLEASE TAKE FURTHER NOTICE that in support of this motion, the undersigned counsel will rely upon the accompanying Memorandum of Law, all pleadings and papers on file in this action, and upon such further testimony, evidence and argument as the Court may allow.

Dated: August 10, 2021

Respectfully submitted,

/s/Brian R. Blackman

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*Attorney for Defendant Whole Foods Market Group, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 10, 2021, I caused a copy of the foregoing Notice of Motion to Dismiss Plaintiff's Second Amended Complaint to be served on the following counsel via CM/ECF:

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*/s/ Brian R. Blackman*  
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